

1 Robert A. Mittelstaedt (#60359)
2 Craig E. Stewart (#129530)
3 JONES DAY
4 555 California St., 26th Floor
5 San Francisco, CA 94104
6 Telephone: (415) 626-3939
7 Fax: (415) 875-5700
8 ramittelstaedt@jonesday.com

9 Jane F. Thorpe (*pro hac vice*)
10 Scott A. Elder (*pro hac vice*)
11 ALSTON & BIRD LLP
12 1201 West Peachtree St., NW
13 Atlanta, Georgia 30309-3424
14 Telephone: (404) 881-7592
15 Fax: (404) 253-8875
16 jane.thorpe@alston.com

17 Terrence J. Dee (*pro hac vice*)
18 KIRKLAND & ELLIS LLP
19 300 North LaSalle
20 Chicago, IL 60654
21 Telephone: (312) 862-2099
22 Fax: (312) 862-2200
23 tdee@kirkland.com

24 Attorneys for Plaintiff
25 CTIA – The Wireless Association®

26 Andrew G. McBride (*pro hac vice*)
27 Joshua S. Turner (*pro hac vice*)
28 WILEY REIN LLP
1776 K Street, N.W.
Washington, DC 20006
Telephone: (202)719-7000
Fax: (202) 719-7049
amcbride@wileyrein.com

Seamus C. Duffy (*pro hac vice*)
Susan M. Roach (*pro hac vice*)
DRINKER BIDDLE & REATH LLP
One Logan Square, Suite 2000
Philadelphia, PA 19103-6996
Telephone: (215) 988-2700
Fax: (215) 988-2757
seamus.duffy@dbr.com

26 CTIA - THE WIRELESS ASSOCIATION®,
27 Plaintiff,
28 v.

26 THE CITY AND COUNTY OF SAN
27 FRANCISCO, CALIFORNIA,

28 Defendant.

Case No. 3:10-cv-03224 WHA

**STIPULATION AND [PROPOSED]
ORDER REGARDING BRIEFING AND
HEARING SCHEDULE**

RECITALS

1. On June 18, 2011, this Court approved the parties' stipulation deferring motion practice in this case pending enactment of the City's proposed amended Ordinance and adoption of the accompanying regulations.

2. The City's Board of Supervisors enacted the amended Ordinance on July 26, 2011 and the Mayor signed it into law on August 3, 2011. Under the San Francisco City Charter, the "effective date" of the amended Ordinance is September 6, 2011. The amended Ordinance requires that, within 15 days of the effective date or as soon thereafter as practicable, the City's Department of Environment ("DOE") adopt implementing regulations specifying the content and format of the required disclosures. Before adopting final regulations, the DOE must give ten days' public notice and hold a hearing.

3. The DOE released its draft regulations for public comment on September 16 and has scheduled its public hearing for September 26. The DOE currently expects that it will issue final regulations on September 30. Within 15 days after the final regulations are issued by DOE, cell phone retailers are required by the Ordinance to comply with the requirements to display posters and provide informational factsheets. If the regulations are adopted on September 30 as expected, the compliance date for the display posters and fact sheet will be October 15, 2011.

4. For the reasons described more fully in the parties' joint CMC statement filed on June 9, 2011 (Doc. 48), given the short compliance deadlines imposed by the amended Ordinance, the parties do not believe it will be feasible to adopt a schedule for discovery and briefing of cross-motions for summary judgment as was undertaken in regard to the original Ordinance. Instead, it is clear from the deadlines recited above that the parties must litigate some form of preliminary relief on an expedited basis before this Court in the period between the promulgation of the final regulations and the compliance date.

5. After meeting and conferring, the parties accordingly propose the schedule below for briefing and hearing of CTIA's motion for preliminary relief. To permit the Court adequate time to hold a hearing and rule before the compliance date, the City agrees to extend the compliance date until October 25, 2011. With respect to the hearing date, the parties request that

the Court set a date that would permit the Court to rule by the extended October 25 compliance date. All counsel are available to appear any day of the week of October 10. Counsel for CTIA respectfully request that, if the hearing is set for the week of October 17, that it be set for October 17 or 19, as already scheduled court appearance dates create conflicts for CTIA's counsel the other days that week.

6. The proposed schedule is premised on the DOE adhering to the expected dates described above for issuing and adopting the draft and final regulations. Should those expected dates change, the parties will promptly meet and confer regarding a modified schedule to propose to the Court.

7. Neither party waives any substantive rights by this Stipulation or the right to seek any form of emergency stay or administrative stay or vacatur of same from this Court or the Ninth Circuit or any individual Circuit Judge or Justice of the Supreme Court.

STIPULATION

Based on the foregoing recitals, the parties stipulate as follows:

1. CTIA will file its amended complaint and motion for preliminary relief by noon on October 4, 2011.

2. The City will file its opposition to CTIA's motion by October 7, 2011.

3. CTIA will file its reply memorandum by October 11, 2011.

4. CTIA's motion will be heard on October 20, 2011 at 8 a.m.

5. The case management conference currently scheduled for October 6, 2011 is vacated.

Dated: September 20, 2011

JONES DAY

By: /s/ Craig E. Stewart
Craig E. Stewart

Craig E. Stewart

Attorneys for Plaintiff
CTIA – The Wireless Association®

1 Dated: September 20, 2011

DENNIS J. HERRERA, State Bar #139669
2 City Attorney
3 WAYNE SNODGRASS, State Bar #148137
4 VINCE CHHABRIA, State Bar #208557
5 Deputy City Attorneys
6 City Hall, Room 234
7 #1 Dr. Carlton B. Goodlett Place
8 San Francisco, California 94102-4682
Telephone: (415) 554-4674
Facsimile: (415) 554-4699
E-Mail: vince.chhabria@sfgov.org

9
10 By: Vince Chhabria /cbs
11 Vince Chhabria

12 IT IS SO ORDERED.
13
14 Dated: September 26, 2011.

15 
16 WILLIAM H. ALSUP
17 UNITED STATES DISTRICT JUDGE